IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6492 of 2007(K)

[CRIME NO.365/07 OF NOORANAD POLICE STATION]

: PETITIONERS

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1. K.SURESH KUMAR,
   KALLITTATHIL, ERUMAKUZHI MURI, PALAMEL VILLAGE,
   NOORANAD.

2. K.RAJESH KUMAR,
   KALLITTATHIL, ERUMAKUZHI MURI, PALAMEL VILLAGE,
   NOORANAD.

3. N.THANKAMANY, W/O. KUNJUPILLAI,
   KALLITTATHIL, ERUMAKUZHI MURI, PALAMEL VILLAGE,
   NOORANAD.

BY ADV. SRI.RASHEED C.NOORANAD

RESPONDENTS:

S.I. OF POLICE,
NOORANAD POLICE STATION, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6492 of 2007

Dated this the 24th day of October 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 to 3. Altogether there are three accused persons. The petitioners face allegations for the offence punishable under Section 420 read with 34 I.P.C. They are the Managing Partner and Partners of a financial institution which receives deposits from the customers. Deposits were not returned. It is the case of the police that the gullible depositors were fraudulently induced to part with money with no serious intention at all to repay the amounts due to the depositors. Amounts have not been returned. It has also come out that the petitioners do not at all have any legal authority to run such an activity of receiving deposits.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Only because of financial difficulties they have not been able to repay the amounts due to some of the depositors. Such depositors are only close relatives of the petitioners with whom they are having other business transactions. In these circumstances, the petitioners may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that complaints have been

received from several depositors about non-payment of amounts due to them. In any view of the matter, this is not a fit case where directions under Section 438 Cr.P.C can or ought to be issued in favour of the petitioners. It may not be lost sight of that the petitioners do not at all have any authority to run such a business activity.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there no are features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007